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SP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/178,396	10/23/98	MORIN	B 2029

025280
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IM31/0731

EXAMINER

PRATT, C

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

14
07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/178,396

Applicant(s)

MORIN ET AL.

Examiner

Christopher C. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13. 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's remarks filed 6/8/01 have been entered and carefully considered. In view of applicant's arguments the rejections set forth in the last two actions have been withdrawn in favor of a new grounds of rejection. Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-11, and 13-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567) in view of either Marin et al (6189189) or Zeidell (3902299).

Yahiaoui is concerned with the creation of a fabric treated with applicant's claimed materials suitable for use as a wipe. Applicant argues that the fabric of Yahiaoui does not teach the particle count instantly claimed when subjected to a biaxial shake test. Applicant argues that the instant invention has a much lower particle count because it is subjected to a laundering process (p. 3 of Applicant's response, lines 2-7). Yahiaoui does not seem to teach a laundering process.

Marin and Zeidell are concerned with the creation of fabric suitable for use as a wipe. Both Marin and Zeidell teach subjecting said fabric to a laundering process (col. 4, lines 5-15 and abstract, respectively). It would have been obvious to a person having ordinary skill in the art at the time the invention made to subject Yahiaoui's wipe to the laundering processes taught by either Marin or Zeidell. Such a modification would have been motivated by the desire to remove contaminants and lint from the fabric of Yahiaoui. It is the examiner's position that after this washing step is performed on the fabric of Yahiaoui that said fabric would exhibit the particle count property claimed by applicant. The examiner notes that the combination set forth above possesses the same fabric and polymers of applicant's invention, as set forth in the last two actions, and is subjected to the same processing treatments.

If said combination does not inherently meet applicant's claimed particle count property then it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a fabric having applicant's claimed particle count property, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). The skilled artisan would have been motivated to reduce the particle count of a wipe by the reasoned expectation of reducing the amount of contaminants left behind after use.

Applicant argues that it would not have been obvious to select a yarn denier of 15-250. The examiner takes official notice that such yarn deniers are well known and extremely common in the art of absorbent fabrics. In support of this position the

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examiner notes that Morin teaches applicant's claimed deniers (col. 2, lines 60-61). It would have been obvious to the skilled artisan at the time the invention was made to select a yarn denier from applicant's extremely broad range. The skilled artisan would have been motivated to select such a denier by the desire to modify the hand, feel, flexibility, strength, and absorbent capabilities of the fabric.

With respect to claims 21-23, applicant argues that Yahiaoui teaches away from the use of surfactants because a lowered surface tension is undesirable in diapers and feminine hygiene products. While Yahiaoui teaches said fabric to be used in these applications, said fabric is also taught to be used as a wipe (col. 1, lines 22-23). Furthermore, once the fabric has been washed, as taught by Morin and Zeidell, only a residue of the surfactant would remain. It is the examiner's position that this residue would not "significantly suppress" the surface tension of an aqueous medium with which the coated porous substrate may come in contact.

4. Claims 6, 12, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567) in view of either Marin et al (6189189) or Zeidell (3902299) and Applicant's Admitted Prior Art (AAPA).

Applicant argues that said fabric would not meet the claimed particle release parameters. This is not found persuasive for the reasons set forth above.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

Christopher C. Pratt
July 25, 2001


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700